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The Gavel

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# the GAVEL

VOLUME IX NO. 2

CLEVELAND-MARSHALL LAW SCHOOL

CLEVELAND, OHIO

NOVEMBER 1960



David I. Sindell

## Pre-trial Investigation Popular Course at C-M

"Pre-Trial Investigation and Preparation," a completely new course this semester concerned with the marshalling of facts other than medical in personal injury cases, has been enthusiastically received here at Cleveland-Marshall. A two credit hour course, Pre-Trial Investigation, is open to seniors and graduate students. Approximately one-half of the present class is composed of practicing attorneys.

Mr. David I. Sindell, of Sindell, Sindell, Bourne, Disbro and Markus, conducts the course on the proposition that a complete knowledge and thorough understanding of all of the facts is essential and the most valuable asset in personal injury work. Mr. Sindell pursues the philosophy of, "Facts first and then the library." He feels that in law schools, not enough emphasis is placed on facts and that a law student seldom has more than a passing acquaintance with the facts from reading the cases.

Pre-Trial Investigation deals with actual cases and actual investigations and covers basically the assimilation of those

facts other than medical by (1) interviewing of witnesses; (2) obtaining photographic evidence; (3) taking of statements; and (4) obtaining expert witnesses. The student is then instructed in the use of the process of "time binding" which is a crystallizing and recording of these facts. The aim of the course is to acquaint the student with the methods employed by both plaintiff and defense attorneys.

The course is being conducted as a seminar. To date, three locally prominent attorneys, Victor Todia, an admiralty lawyer, John Cardinal, an attorney for the Cleveland Transit System, and Ralph Rudd, have visited the class and recounted the procedure and methods used in the collecting of facts in particular cases.

Mr. Sindell, a graduate of Western Reserve University Law School in 1936, taught law and public speaking in the Cleveland Public School System for ten years, two on a full time basis and eight in the System's night school. He has been in practice in Cleveland as a plaintiff's personal injury lawyer for the past twenty-four years and during that time has done considerable writing in his field. Mr. Sindell lives with his wife and three children at 3010 Eaton Road in Shaker Heights Ohio.

## Open House December 3

The annual Cleveland-Marshall "Open House" will be held in the Student Lounge at 8:30 PM on December 3. All students, their wives, dates, and friends are invited to attend. The price of admission, for both individuals and couples, other than freshmen, is \$1.50. Following the usual tradition, freshmen will be admitted free.

This year, the Delta Theta Phi Fraternity, the Student Council, and the Law Wives Club are combining their talents to provide what should be a thoroughly enjoyable evening.

The date, December 3, was chosen because this particular weekend does not interfere with any examinations.

"The Counts" will provide music for dancing throughout the evening. Sandwiches, soft drinks, mix, potato chips and pretzels will be available. The refreshments will be set up in the Student Lounge. The adjoining classrooms will be used for dancing.

Baldwin's, Ohio Revised Code, and other valuable prizes will be raffled.

Committees have been organized and the various preparations appear to be fairly well under way. There is, however, according to the committee chairmen, still a lot of work to do. Chairman Jim Kilcoyne requests that volunteers contact any of the committee heads.

They are: Orchestra: George Joseph (Junior); Printing, Edward Manning (Freshman); Publicity, Al Oberst (Sophomore); Decorating, John Gill (Junior) and John Hickey (Junior); Food, Winifred Dunton (Senior); and Refreshments, Art Fitzgerald.

Tickets will be available at the door.

## Writers Wanted

The May 1961 Issue of the Cleveland-Marshall Law Review will include a symposium dealing with, "Present trends in awards for pain and suffering."

Miss Margaret Mazza, Editor-in-chief of that issue, reports that at this time there are still several assignments available. This symposium should be of particular interest to attorneys, insurance adjusters, claims men, and students with personal injury leanings.

Anyone interested may contact either Miss Mazza or Professor Oleck.



# alice in marshalland

# Rebuttal

by Albert Oberst

Alice found herself in a long hallway that didn't look at all familiar. "I wonder," thought Alice, "which way I ought to walk from here."

"That depends a good deal on where you want to get to," said the Cheshire Cat suddenly appearing on the red settee.

"Oh, it's you," said Alice. And by way of explanation added, "So long as I get somewhere."

"Oh, you're sure to do that," said the cat, "if only you walk long enough. However," continued the cat waving his left paw, "to be more particular, in that direction is the administration end of the hall. And in the other direction," he said waving his right paw, "is the un-administration end of the hall."

"I think," said Alice, "I should like to visit the administration end of the hall." (For she had absolutely no idea what un-administration was.)

"Do what you like," said the cat, and vanished quite slowly, beginning with the end of the tail and ending with the grin which remained sometime after the rest of it had gone.

At the end of the hallway, Alice turned left, opened a small wooden gate and found herself in a rather large room. On the right and at the far end, there were a number of large, plush, and quite handsome offices. On the left, there was a neat row of what appeared to Alice to be several large packing crates, the kind refrigerators usually come in. "What in the world," Alice thought to herself, "would they need so many refrigerators for?"

Since there was obviously no one to answer the question, Alice decided to investigate. She found, to her dismay, that try as she might she was unable to so much as get her head through the narrow opening that was apparently the only door. "And even if my head would go through," thought poor Alice, "it would be of little use without my shoulders."

So Alice, being a practical girl, immediately set about looking for another bottle labeled, DRINK ME. Just at that moment she heard footsteps. A very dapper, but rather austere gentleman, carrying several large blue books, came hurrying down the hall muttering to himself, "Oh the Dean! The Dean!

Oh! won't he be savage if I keep him waiting."

"There isn't any," he said as he approached Alice.

"He obviously knows what I'm looking for," said Alice to herself.

"Here," said the austere gentleman, offering one of the large blue books, "read this. Most of the students feel small and insignificant after they do."

As he hurried away, Alice opened the book and began reading. "Modern Corporations," it began, and sure enough Alice felt herself getting smaller and smaller. When she was small enough to fit through the narrow door she quickly stopped reading, set the book down which was now getting quite heavy, and set out again to explore. The second box, which was exactly like the first, contained a small desk and swivel chair. But, unlike the other, a grey-haired gentleman occupied the swivel chair. There was a book on the desk that he was obviously reading. But, thought Alice, "He's crammed into the box so tightly, he has absolutely no way of turning the pages."

Alice timidly knocked on the side of the box. "There's no sort of use in knocking," said the grey-haired gentleman, "for two reasons. First, because there's no door and when you knock I have nothing to open. Secondly, you're liable to knock a hole in the wall which would spoil my office."

"How do you turn the pages," asked Alice curiously.

"I don't," he said sadly, and continued as if it explained everything, "this is a case for my moot court."

"Mute court," said Alice with some severity, "you should not tease you know. What kind of a court would it be if it were mute?"

"Moot court! Moot court! Why that's the answer," cried the grey-haired gentleman, throwing up his arms and almost collapsing the walls, "I'll take my case to the highest moot court in the land. I'll get an office like the other fellas have."

"My goodness," said Alice as she went back through the wooden gate, "I think I should have gone to the un-administration end in the first place."

Drew Pearson and Leonard Lybarger have one thing in common. Few Republicans agree with their political theories. Since Leonard Lybarger, in his *Gavel* article (October 1960), "The Antithesis," presented a biased viewpoint of why Senator Kennedy should be elected, it seems fitting and proper to present a partial article as to why Vice-President Nixon should be elected.

Leonard Lybarger concludes that we must "Align .... with the New Frontier of concerted action." What this New Frontier has in store for the United States is very questionable. Also, many explorers have been lost when adventuring into this hazy type of socialistic wilderness. We should not go overboard on a freeloader system which is contrary to the principles upon which the United States was founded and, in spite of the "New Deal" tactics, has survived.

Realizing that moral deterioration, inflation and Communism are those recognized evils which can quickly grow out of a welfare state, the Republican Party is acting to put the responsibilities where they belong. This moral accountability can best be accomplished in a self reliant and self initiated type of society.

This accountability will not exist when you are taxed and represented by a sluggish and inefficient bureaucracy. This bureaucracy, devoid of moral compulsion, will encourage moral deterioration as it takes away the duties belonging to the local governments and citizens.

## THE GAVEL

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Editor in-Chief Thomas M. Shaughnessy

News Editor Daniel O. Corrigan

Feature Editor Leonard F. Lybarger

Editorial Staff: Ethel Koch, Albert Oberst, Pete Roper, John Vamis, Esther Weisman.

Business & Advertising Managers Stephen D. Dobose, William R. Murphy Jr., George W. Spilker

Faculty Advisor Prof. William Samore



# Pluralism vs Dualism

by Leonard F. Lybarger

As the decade of the 1960's begins, it is well to reassess the value to the present generation of a traditional concept employed in international politics.

Prior to World War I, peace or discord in the world depended upon the counterbalancing of power among the various nations. When one became overpowering, war resulted; but when each offset the other, peace was maintained.

A retrospective view of the past half century reveals that this concept has been discarded. After World War I the "balance" concept lost out to "self-determinationism." Germany and the Austro-Hungarian Empire were dismantled. Twenty-one independent sovereignties appeared in Central and Western Europe. Again, in 1945 decentralization of power in Europe resulted in an overbalance, this time in favor of Russia.

In the wake of the balance of power idea appeared dualism, which required the alignment of weak nations of the side of either the East or West. The force of events and dominating leadership caused this inevitable consequence.

To the politically naive, the relatively unheard plea of General Charles DeGaulle for re-establishing France and Western Europe as major powers is but a vain cry for undeserved glory. To those who look, as well as listen, it is a call to arms by the greatest political realist of our day. Evidence that others hear the plea can be seen in the growing importance of The European Common Market and Schuman's European Steel and Coal Community. The role of "neutrality" in the power struggle today is another indication of the unconscious

return to the "balance" concept.

Heretofore, it has been axiomatic that dualism results in war; whereas pluralism in world power prevents disruption. Which shall win hereafter? Only time can answer. Time, however, is on the side of the astute Frenchman.

## LEXICON

by Pete Roper

Sundae — The "Blue Laws" are responsible for this one. Because of a ban on the dispensing of soda drinks on Sunday, a Norfolk, Va., drug store proprietor prepared a concoction of vanilla ice cream and chocolate syrup, and shrewdly dubbed it a "sundae."

Verdict — From the Latin vere dictum (a true saying) It is a declaration of truth as to matters of fact submitted to the jury."

Juror — In Latin, a jurator was a swearer, and thus the jury is a body of citizens sworn to give a true answer or verdict upon some matter submitted to them. "Jury" and "juror" are not related to such words as "jurisdiction," and "juridical," since the latter have their roots in the Latin jus and juris, meaning "right" and law."

## Fraternity News

by John Vamis

Brother Delts were given the opportunity at the smokers October 7 and 28 to meet new students in the freshman class as well as other non-fraternity members. Members and non-members heard a very interesting and informal talk by Brother Bernie Conley of the Cleveland Police Department. Brother Conley, who has had a long and distinguished career in the Scientific Investigation Bureau, spoke on the development of the polygraph (lie detector) in police investigations. He also highlighted the development of other scientific devices with personal accounts of their application. Of special interest were his observations regarding the presentation of scientific evidence in criminal prosecutions.

Brothers are reminded that all applications for new members must be in the hands of Vice - Dean Jim Kilcoyne by November 11. During the regular business meeting that evening, the new memberships will be voted upon.

At the next regular social meeting on November 18 the Fraternity will have the opportunity to hear an address by Brother John Weeks. Brother Weeks is a Vice-President of the Glidden Company and in that capacity, among other duties, is in charge of company negotiations with the Union. He has had many years experience in labor-management relations and is recognized as one of the top labor relation consultants in the area.

The Fraternity notes with pleasure the return of Professor William Samore. During his recent stay in the hospital, Brother John Hickey presented to him, on behalf of the Fraternity, a rubber tree plant.

Memo for future events: The installation luncheon has been changed from November 19 to December 3.

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## Wives Tea a Success

The first social event of the 60-61 school year, the second annual Wives Club Tea, was another success for the Cleveland-Marshall Law Wives Club. The tea, on October 9, was held in an attractively decorated student lounge.

President Judy Seuthe introduced the speakers. Dean Stapleton welcomed a group of fifty-three wives. Judges Lee Skeel and Samuel H. Silbert, Student Council President, Russell A. Sherman, and Professor Howard Oleck gave short talks.

Mesdames Oleck, Samore, Silbert and Skeel poured.

The officers felt that the turnout was good and were particularly encouraged by the large number of freshman wives who attended for the first time.

At the next meeting, on November 13, the Wives will elect officers for the coming year.

## Samore Back

Maybe a little bit thinner, but for the most part looking fit as the proverbial fiddle, Professor William Samore returned to classes on October 26, dispelling numerous rumors that ranged all the way from serious heart trouble to an extended trip abroad.

Mr. Samore entered St. Vincent Charity Hospital on September 30 and immediately underwent surgery for removal of a fistula. He was released from the hospital on October 17 and spent the next week convalescing at home.

Mr. Samore expresses his gratitude and thanks to those who made the weeks in the hospital more pleasant with cards, flowers and calls, and particularly to those who so graciously took over his duties here at the school.

Mr. Samore reports that the surgery was completely successful and tells us that he'll be in good shape for the remainder of the 60-61 campaign.

By gosh, Professor, it's good to have you back!

### TEN TEAMS LINE UP

Twenty juniors, in teams of two, have been assigned five tort cases for appellate procedure in Cleveland-Marshall's newly-formed Moot Court.

The plaintiff teams have until the end of November to present their briefs. The defense will be required to present their answers twenty days from that date. The cases will be heard near the first of the year.

Professor Smith, the Moot Court's faculty moderator, is attempting to schedule the hearings on evenings when other students would be able to attend.

## Et Tu...

As a result of an October faculty meeting the following policy is announced:

A four year average of 75% is a prerequisite for taking the comprehensive examinations. The comprehensive score will be equally weighted with the four year average and the result must be 75% or greater in order to graduate.

The grades and progress of those students on probation will be closely followed by a faculty committee. No student will be allowed to remain on probation for over one year.

The admission policy for accepting so-called "flunkie students" from other schools will be made stricter.

A student, scoring less than .07 in the law aptitude test, will not be allowed to continue if during the first year he fails any course or gets a "D" in any three hour course.

The faculty has complete discretion as to the dismissal of any student for poor scholastic work regardless of the aptitude percentile.

The grading system will be reviewed in an attempt to establish uniformity.

A Standards and Admission Committee of faculty members has been formed to review admission policy and scholastic standards within the school.

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